

Appln No. 10/814,926
Amdt date June 7, 2006
Reply to Office action of February 23, 2006

REMARKS/ARGUMENTS

Applicant responds to each of the Examiners points raised in the February 23, 2006 Office action as follows:

Specification

The title of the invention was objected to because it was not descriptive. The title has now been amended to be sufficiently descriptive. Accordingly, reconsideration and removal of this objection is respectfully requested.

Claims

Claims 1-34 have been cancelled and claims 35-64 have been added. New claims 35-64 use terminology that is similar to that of claims 1-34, although the scope and order of some of the claims has been rearranged.

Claim Rejections Under 35 U.S.C. §102

The Examiner rejected claims 1-25 and 27-34 as being anticipated by Hearn (U.S. Pub. No. 2002/0143336) and claims 1 and 26 as being anticipated by Lin. Applicant respectfully traverses these rejections.

As noted above, new claims 35-64 have been added. Claim 35 is an independent claim directed to "[a]n implant for the treatment of bone fractures, the implant comprising a main plate element . . . and a plate-shaped outrigger element . . . the plate-shaped outrigger element being offset from the main plate, the implant further comprising a flexible connection element, wherein the flexible connection element connects the main plate and the outrigger element to treat a bone fracture." Claim 63 is an independent claim directed to an implant system, the claim containing substantially similar language to claim 35.

Hearn is directed to a sternum fixation device. In one embodiment, Hearn teaches a device including first and second mating plates 12, 14 attached to one another by a release member 16. Hearn, para. 29. More specifically, the first plate 12 includes a series of first

joining portions 30 that inter-digitate with corresponding second joining portions 32 on a second plate 14. Hearn, para. 31. When the plates are connected, a release member 16 inserted into first and second longitudinal bores 34, 36 secures the first and second plates together. Hearn., para. 32. As shown in FIG. 2, the first and second joining portions 30, 32 overlap as well as inter-digitate, thus fixing the plates together such that they do not rotate with respect to one another. Hearn, para. 33. Accordingly, Hearn does not teach an implant for the treatment of bone fractures, wherein an outrigger plate element is offset from a main plate. Rather, Hearn teaches two plates connected adjacent to each other.

Hearn discloses a second embodiment including first and second plates 212, 214 attached to one another by release member 216. Hearn, para. 39. The first plate 212 includes a first joining portion 230 that overlaps with corresponding joining portion 232 on the second plate. Hearn, para. 40. As shown in FIGs. 15-17, the joining portions 230, 232 which connect the first and second plates are rigid, not flexible. Hearn does not teach or suggest using a flexible connection element for the treatment of sternum fractures since the sternum is a plate-like bone and fractures of the sternum require a rigid connection which is stable with respect to pressure and bending forces. A flexible connection element between the first and second plates would only be able to transfer tensile forces. Thus, a flexible connection element would not be adequate to fix a sternum fracture.

Additionally, the Examiner notes that any material can be flexed or bent, even glass when heated. Applicant does not dispute that while the Examiner's assertion may be correct, one reasonably skilled in the art would understand that flexible as used in the context of the current claims means flexible at or about room temperature and/or body temperature and is not meant to apply to any material which is flexible under only extreme conditions. The flexibility in the claimed context means flexible without any undue effort. Accordingly, Hearn does not teach an outrigger plate element offset from a main plate wherein the outrigger plate element is connected to the main plate by a flexible connection element.

Lin is directed to an artificial acetabular joint replacing device including an acetabular joint replacing body 10 and a fastening piece 40. The cup shaped bottom portion of the

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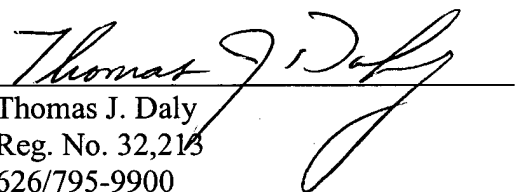
acetabular joint replacing body is dimensioned to fit over the premended portion 52 of the femur. Lin, col. 2, ll. 58-60. Accordingly, Lin does not teach an implant for the treatment of bone fractures, the implant comprising a main plate element offset from a plate-shaped outrigger element, the implant further comprising a flexible connection element, wherein the flexible connection element connects the main plate and the outrigger element to treat a bone fracture.

Applicant respectfully submits that claims 35 and 63 are patentable over the cited references. Moreover, since claims 36-62 and 64 depend from either claim 35 or 63, these claims are also patentable over the cited references.

Respectfully submitted,

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